



DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–R8–ES–2021–N027; FXES11140800000–212]

Endangered and Threatened Species; Receipt of an Enhancement of Survival Permit Application and Safe Harbor Agreement for Bluff Lake, San Bernardino County, California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability and request for comments

SUMMARY: The Wildlands Conservancy (applicant) has submitted a safe harbor agreement (SHA) and applied to the U.S. Fish and Wildlife Service (Service) for an enhancement of survival permit pursuant to the Endangered Species Act. The Service is considering issuance to the applicant of a 30-year permit that would authorize take of the federally endangered mountain yellow-legged frog and unarmored threespine stickleback (a fish species). We have prepared a draft environmental action statement (EAS) for our preliminary determination that the SHA and permit decision may be eligible for categorical exclusion under the National Environmental Policy Act. We invite comments from the public on the aforementioned documents.

DATES: Written comments should be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: You may view or download copies of the draft SHA and draft EAS and obtain additional information on the internet at <https://www.fws.gov/carlsbad/>, or obtain hard copies by calling the phone number listed below. You may submit comments or requests for more information by any of the following methods:

- *Email:* fw8cfwocomments@fws.gov. Include “Bluff Lake SHA” in the subject line of the message.

- *U.S. Mail:* Field Supervisor, U.S. Fish and Wildlife Service, Carlsbad Fish and Wildlife Office, 2177 Salk Avenue, Suite 250, Carlsbad, CA 92008

FOR FURTHER INFORMATION CONTACT: Jesse Bennett, by telephone at 760–431–9440 or by electronic mail at Jesse_Bennett@fws.gov. If you use a telecommunications device for the deaf (TDD), please call the Federal Information Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION: The Wildlands Conservancy (applicant) has applied to the U.S. Fish and Wildlife Service (Service) for an enhancement of survival permit pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The Service is considering issuance to the applicant of a 30-year permit that would authorize take of the federally endangered mountain yellow-legged frog (*Rana muscosa*) and unarmored threespine stickleback (a fish species; *Gasterosteus aculeatus williamsoni*) through a safe harbor agreement (SHA). The purpose of this SHA is for the applicant to manage habitat for the species at Bluff Lake in San Bernardino County, California. The applicant seeks to provide for the

long-term recovery of the species in the wild through the maintenance and/or enhancement of suitable habitat that can accommodate reestablishment of the site from captive populations or other extant locations that may be present within the historic range of the species. We have prepared a draft environmental action statement (EAS) for our preliminary determination that the SHA and permit decision may be eligible for categorical exclusion under the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*).

We invite comments from the public on the permit application, draft SHA, and draft EAS, which are available for review. The SHA describes the proposed project and the measures that the applicant would undertake to avoid and minimize take of the covered species.

Background

SHAs are intended to encourage private or other non-Federal property owners to implement beneficial conservation actions for species listed under the ESA. SHA permit holders are assured that they will not be subject to increased property use restrictions as a result of their proactive actions to benefit listed species. Incidental take of listed species is authorized under a permit pursuant to the provisions of section 10(a)(1)(A) of the ESA. For an applicant to receive a permit through an SHA, the applicant must submit an application form that includes the following:

1. The common and scientific names of the listed species for which the applicant requests incidental take authorization;
2. A description of how incidental take of the listed species pursuant to the SHA is likely to occur, both as a result of management activities and as a result of the return to baseline; and
3. A description of how the SHA complies with the requirements of the

Service's Safe Harbor Policy (64 FR 32717, June 17, 1999).

For the Service to issue a permit, we must determine that:

1. The take of listed species will be incidental to an otherwise lawful activity and will be in accordance with the terms of the SHA;
2. The implementation of the terms of the SHA is reasonably expected to provide a net conservation benefit to the covered species by contributing to its recovery, and the SHA otherwise complies with the Service's Safe Harbor Policy;
3. The probable direct and indirect effects of any authorized take will not appreciably reduce the likelihood of survival and recovery in the wild of any listed species;
4. Implementation of the terms of the SHA is consistent with applicable Federal, State, and Tribal laws and regulations;
5. Implementation of the terms of the SHA will not be in conflict with any ongoing conservation or recovery programs for listed species covered by the permit; and
6. The applicant has shown capability for and commitment to implementing all of the terms of the SHA.

The Service's Safe Harbor Policy and Safe Harbor Regulations (68 FR 53320; 69 FR 24084) provide important terms and concepts for developing SHAs. The policy and regulations are available at <http://www.fws.gov/endangered/laws-policies/regulations-and-policies.html>.

Proposed Action

The applicant's permit application includes a draft SHA, which covers 60 acres owned by the applicant in San Bernardino County, California. The proposed term of the

permit and the SHA is 30 years. The permit would authorize incidental take of the two species that may occur while pursuing conservation actions that are expected to provide a net benefit to these species. We have prepared a draft EAS for our preliminary determination that the SHA and permit decision may be eligible for categorical exclusion under NEPA. We invite the public to review and comment on the permit application, draft SHA, and draft EAS.

This SHA provides for the management of mountain yellow-legged frog and unarmored threespine stickleback habitat at Bluff Lake, San Bernardino County, California. Bluff Lake occurs within the U.S. Geological Survey 7.5-minute series Big Bear Lake topographic quadrangle (township 2 north, range 1 west, section 34). When fully implemented, the SHA and requested enhancement of survival permit will allow the Applicant to return habitat conditions to baseline after the end of the 30-year term of the SHA and permit, if so desired by the applicant.

The SHA describes the management activities to be undertaken by the applicant, and the net conservation benefits expected to the mountain yellow-legged frog and unarmored threespine stickleback. Upon approval of this SHA, and consistent with the Service's Safe Harbor Policy published in the Federal Register on June 17, 1999 (64 FR 32717), the Service would issue a permit to the applicant authorizing take of the mountain yellow-legged frog and unarmored threespine stickleback incidental to the implementation of the management activities specified in the SHA; incidental to other lawful uses of the enrolled property including normal, routine land management activities; and to return to pre-SHA conditions (baseline).

Under the SHA, the applicant will allow the release of mountain yellow-legged frogs and unarmored threespine stickleback on the property. This release may involve the temporary placement of small enclosures. The applicant will further undertake management activities to benefit the mountain yellow-legged frog and unarmored

threespine stickleback. This will include maintaining or improving habitat conditions on the property, throughout the duration of the SHA, except in the event of a natural disaster such as a wildfire or severe drought. The applicant will also minimize the potential impact of recreation and nonnative species management.

National Environmental Policy Act Compliance

The development of the draft SHA and the proposed issuance of an enhancement of survival permit are Federal actions that trigger the need for compliance with the NEPA (43 U.S.C. 4321 *et seq.*). We have prepared a draft EAS to assess the probable scope of impacts of permit issuance and implementation of the SHA on the human environment. We have made a preliminary determination that issuing the permit and implementing the SHA would have minor or negligible impacts to the environment, and thus the proposed SHA and permit actions are eligible for categorical exclusion under NEPA. The basis for our preliminary determination is contained in the EAS, which is available for public review (see **ADDRESSES**).

Next Steps

We will evaluate the permit application, associated documents, and comments we receive to determine whether the permit application meets the requirements of the ESA, NEPA, and implementing regulations. If we determine that all requirements are met, we will sign the proposed SHA and issue a permit under section 10(a)(1)(A) of the ESA to the applicant. We will not make our final decision on the permit application until after the end of the public comment period, and we will fully consider all comments we receive during the comment period.

Public Availability of Comments

Written comments we receive become part of the public record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that the entire comment, including your personal identifying information, may be made available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority

We provide this notice under section 10(c) of the ESA (16 U.S.C 1531 *et seq.*) and its implementing regulations (50 CFR 17.22 and 17.32), and NEPA (42 U.S.C. 4371 *et seq.*) and its implementing regulations (40 CFR 1506.6; 43 CFR 46).

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